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D. GEORGE SWEIGERT, C/O  
P.O. BOX 152  
MESA, AZ 85211

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK  
(FOLEY SQUARE)

D. GEORGE SWEIGERT  
Plaintiff,

vs.

JASON GOODMAN

And

PATREON, INC. (proposed)  
Defendants

Case No.: 1:18-cv-08653-UA

JURY TRIAL DEMANDED

MEMORANDUM OF POINTS & AUTHORITIES  
IN SUPPORT OF PLAINTIFF'S MOTION TO  
STRIKE DEFENDANT'S ANSWER OR  
OTHERWISE MAKE MOOT PURSUANT TO  
FRCP RULE 12(F)

**MEMORANDUM OF POINTS & AUTHORITIES IN SUPPORT OF PLAINTIFF'S MOTION TO  
STRIKE DEFENDANT'S ANSWER OR OTHERWISE MAKE MOOT PURSUANT TO FRCP RULE 12(F)**

1. In this Federal RICO action, Plaintiff seeks to STRIKE OR OTHERWISE MAKE MOOT the Defendant's ANSWER (Doc. No. 35, 10/10/2018 [herein ANSWER]). These POINTS AND AUTHORITIES are herein presented to support Plaintiff's MOTION TO STRIKE. Plaintiff herein relies of Fed. R. Civ. Proc. (FRCP) Rule 12(f) and New York Civil Practice Law and Rules (CPLR) § 3022. The Defendant's ANSWER is defective and should be deemed moot by this Court.

**DEFECTIVE ANSWER**

2. The Court will observe that the Defendant ANSWER (Doc. 35) was NOT verified; but, the Plaintiff's operative South Carolina Amended Complaint WAS verified (Doc. No. 5, filed 06/29/2018 [herein the South Carolina AC]). CPLR § 3022 indicates that a Plaintiff that files a VERIFIED complaint as the right to expect a verified answer. If the answer is not verified it is to be treated as a legal nullity. Quoting CPLR § 3022:

**MEMORANDUM OF POINTS & AUTHORITIES IN SUPPORT OF PLAINTIFF'S MOTION TO  
STRIKE DEFENDANT'S ANSWER OR OTHERWISE MAKE MOOT PURSUANT TO FRCP RULE 12(F)**

**DEFENDANT'S BIFURCATED ANSWER AND COUNTERCLAIM**

5. The Court will observe that the Defendant served a highly unorthodox letter upon the Clerk of the Court (Doc. No. 36, 10/11/2018 [herein **LETTER**]). In Defendant's **LETTER** the following is stated:

Please take notice that I, Defendant Jason Goodman, in the matter of D. George Sweigert v Jason Goodman 1:18-cv-08653-UA **intend to file a counterclaim.** [emphasis added]

6. In New York a counterclaim may accompany an answer pursuant to **CPLR § 3011**. There is no procedure to support bifurcating the two (2). **CPLR § 3011** states:

Kinds of pleadings

**There shall be a complaint and an answer. An answer may include a counterclaim against a plaintiff and a cross-claim against a defendant.** A defendant's pleading against another claimant is an interpleader complaint, or against any other person not already a party is a third-party complaint. There shall be a reply to a counterclaim denominated as such, an answer to an interpleader complaint or third-party complaint, and an answer to a cross-claim that contains a demand for an answer. If no demand is made, the cross-claim shall be deemed denied or avoided. There shall be no other pleading unless the court orders otherwise. [emphasis added]

7. The Plaintiff objects to being forced into a limbo state orbiting the Defendant while awaiting his bifurcated "counter-claim", as announced in the highly unorthodox **LETTER** (Doc. 36) to the Clerk of the Court. The Defendant has not been officially summoned and/or served (a deficiency corrected by the Defendant's appearance (Doc. No. 34, 10/10/2018 [**APPEARANCE**])).

**DEFENDANT'S ATTEMPTED SERVICE VIA E-MAIL MESSAGE**

8. On 10/11/2018 the Defendant attempted to send an electronic mail message to the Plaintiff that purported has an **ANSWER** and **CERTIFICATE OF SERVICE** attached as PDF documents. However, the Plaintiff has made no prior arrangements with the Defendant to receive pleadings via electronic transmission. Again, this is an unorthodox activity undertaken by the Defendant by his own volition.

9. Interesting (as explained in the verified exhibits attached to this pleading) the file "Certificate of Service" contain indicators of a computer virus (see Exhibit One [Exh. 1]. Therefore, the Plaintiff made no attempt to read or act on any of the attached files, save to have them scanned for malicious software code.

10. As indicated in verified Exh. 1, the following error message was displayed in the Plaintiff's GMAIL client:

**Encrypted attachment warning**

– Be careful with this attachment. This message contains 1 encrypted attachment that can't be scanned for malicious content. Avoid downloading it unless you know the sender and are confident that this email is legitimate.

11. The Plaintiff attests that the e-mail attachment "Certificate of Service" could NOT be scanned by several on-line virus detection services (see Exh. 2, 3 and 4). This situation is normally an indicator of a "zero day" virus or other sophisticated embedded malware.

**SUMMARY**

12. The Defendant has proceeded ahead at his own peril and volition to file a barrage of documents that are riddled with errors which are prejudicial to the Plaintiff. Defendant's papers are fatally defective for several reasons (as stated above) and should be struck to improve the efficiency of the court and the administration of justice.

13. I certify, under the penalties of perjury, that the foregoing is true and accurate. Further, I attest that the attached exhibits to this pleading are accurate and true representations of screen-shots depicting a PDF file received for the Defendant.

Dated this day of October 15, 2018

Respectfully submitted.



D. GEORGE SWEIGERT

Pro se non-attorney acting as a private attorney general  
for this public interest lawsuit

# EXHIBITS

Exhibit 1

Thu, Oct 11, 9:37 AM (4 days ago)

**Answer filed** **Inbox x**

**Jason Goodman** <jason@21stcentury3d.com>  
to me, David

Also sent to

D. George Sweigert C/O  
P.O. Box 152  
Mesa AZ 85211

Have a nice day

**2 Attachments**

**Encrypted attachment warning** - Be careful with this attachment. This message contains 1 encrypted attachment that can't be scanned for malicious content. Avoid downloading it unless you know the sender and are confident that this email is legitimate.

Certificate of Servi...

Answer to Attende...

## Exhibit 3

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Search or scan a URL, IP address, domain, or file hash

<https://www.virustotal.com/#/file/1ed47f36d35f7d4f9bcca24442857>

F-PROT appended

**PDF Info**

**Commonly Abused Properties**

- Makes use of AcroForm objects.
- Contains 4 object stream(s).
- Makes use of Digital Rights Management or needs a password to be read.
- Contains 2 page(s).
- Contains 32 object start declaration(s) and 32 object end declaration(s).
- Contains 27 stream object start declaration(s) and 0 stream object end declaration(s).
- Has a pointer to the cross reference table (startxref).

**ExifTool File Metadata**

CreateDate	2018:10:11 16:24:15Z
CreatorTool	Word
DocumentID	uuid:a8db954b-4e14-674e-8293-47e9491f5d14
Encryption	Standard V4.4 (128-bit)
FileType	PDF
FileTypeExtension	pdf
Format	application/pdf
HasXFA	No
InstanceID	uuid:dac4fec7-41a1-864d-ac34-92529148730f
Linearized	Yes
MIMEType	application/pdf

Exhibit 4

